

PATENT
ATTORNEY DOCKET NO. 056848-5003

3724.
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11-6-03
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Aband.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Christopher C.N. CALLOW

Application No.: 09/870,135

Filed: May 30, 2001

For: A CUTTING MACHINE FOR
BRICK MAKING

Confirmation No.: 8867

Group Art Unit: 3724

Examiner: C. Dexter

Commissioner for Patents
U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, **Mail Stop Petition**
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202
Sir:

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OCT 27 2003
TECHNOLOGY CENTER R3700

PETITION UNDER 37 CFR §1.181
TO WITHDRAW HOLDING OF ABANDONMENT

Pursuant to the provisions of 37 C.F.R. §1.181, Applicant hereby petitions to withdraw the holding of abandonment (Notice of Abandonment issued on October 3, 2003) in the above-referenced application which has been held abandoned for failure to timely file a proper reply to the Final Office Action mailed February 21, 2003. The Final Office Action set a due date for response of May 21, 2003. Applicant filed an Amendment Under 37 C.F.R. § 1.116 on May 21, 2003, as indicated by the enclosed date stamped return postcard. On May 30, 2003, the Examiner issued an Advisory Action indicating that the proposed amendments would not be entered because they raise new issues that would require further consideration and/or search. On June 23, 2003 (June 21, 2003 being a Saturday), Applicant filed a Request for Continued Examination, with a one-month Petition for Extension of Time and corresponding fee, as indicated by the enclosed date stamped return postcard. Therefore, Applicant hereby petitions to

withdraw the holding of abandonment in the above-referenced application. The following items are attached:

1. a copy of the Amendment Under 37 C.F.R. § 1.116 filed May 21, 2003;
2. a copy of the date stamped return postcard evidencing receipt at the U.S. Patent Office of the Amendment Under 37 C.F.R. § 1.116 filed May 21, 2003;
3. a copy of the Request for Continued Examination filed June 23, 2003; and
4. a copy of the date stamped return postcard evidencing receipt at the U.S. Patent Office of the Request for Continued Examination filed June 23, 2003.

Prompt and favorable action on the Petition is respectfully requested. In accordance with 37 C.F.R. § 1.17 it is believed that no fees are required at this time.

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By: _____

Victoria D. Hao

Registration No. 47,630

Dated: October 22, 2003

Customer No.: 009629

MORGAN, LEWIS & BOCKIUS LLP

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Facsimile: 202.739.3001



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TECHNOLOGY CENTER R3700

PLEASE STAMP AND RETURN TO SHOW RECEIPT OF:

Mail Stop RCE

In re application of: Christopher C.N. CALLOW

Confirmation No.: 8867

Serial No.: 09/870,135

Group Art Unit: 3724

Filed: May 30, 2001

Examiner: C. Dexter

For: A CUTTING MACHINE FOR BRICK MAKING

1. Request for Continued Examination (RCE) Transmittal

The Commissioner is hereby authorized to charge Deposit Account No. 05-0310 in the amount of \$860 (\$750 for RCE filing fee and \$110 for one-month extension of time fee)

Dated: June 23, 2003

Attorney Docket No.: 056848-5003

VDH/kya



DOCKETED

By *RSB* Date *6-23-03*



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OCT 27 2003
TECHNOLOGY CENTER R3700

PLEASE STAMP AND RETURN TO SHOW RECEIPT OF:

Mail Stop AF

In re application of: Christopher C.N. CALLOW

Confirmation No.: 8867

Application No.: 09/870,135

Group Art Unit: 3724

Filed: May 30, 2001

Examiner: C. Dexter

For: A CUTTING MACHINE FOR BRICK MAKING

1. Amendment Transmittal Form
2. Amendment under 37 C.F.R. §1.116
3. Request for Approval of Drawing Changes (with attached 1 sheet of marked-up drawings)
4. Submission of Formal Drawings (with attached 4 drawing sheets containing 6 figures)
5. Change of Attorney Docket Number

Dated: May 21, 2003

Attorney Docket No.: 056848-5003

VDH/kya



DOCKETED
By *SP* Date *5-22-03*



Response under 37 C.F.R. § 1.116
Expedited Procedure
Examining Group 3724

PATENT
ATTORNEY DOCKET NO.: 056848-5003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
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Christopher C.N. CALLOW)	Confirmation No.: 8867
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Application No.: 09/870,135)	Group Art Unit: 3724
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For: A CUTTING MACHINE FOR BRICK)	
MAKING)	

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Arlington, VA 22202

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TECHNOLOGY CENTER #3700

Sir:

AMENDMENT TRANSMITTAL FORM

1. Transmitted herewith is an Amendment under 37 C.F.R. §1.116 in response to the Final Office Action dated February 21, 2003 (Paper No. 9).
2. Additional papers enclosed:
 - ☒ Submission of Formal Drawings (with attached 4 drawing sheets containing 6 figures)
 - ☒ Request for Approval of Drawing Changes (with attached 1 sheet of marked-up drawings)
 - ☒ Change of Attorney Docket Number
 - ☐ Form PTO-1449, _____ references included
 - ☐ Citations
 - ☐ Declaration of Biological Deposit
 - ☐ Submission of "Sequence Listing", computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.

3. Extension of Time

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136(a) apply.

- ☒ Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.
- ☐ Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a), for the total number of months checked below:

<u>Total Months Requested</u>	<u>Fee for Extension</u>	<u>[Fee for Small Entity]</u>
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 410.00	\$ 205.00
<input type="checkbox"/> three months	\$ 930.00	\$ 465.00
<input type="checkbox"/> four months	\$ 1,450.00	\$ 725.00

Extension of time fee due with this request: \$_____.

If an additional extension of time is required, please consider this a Petition therefor.

- ☐ An extension for _____ months has already been secured and the fee paid therefor of \$_____ is deducted from the total fee due for the total months of extension now requested.

4. Constructive Petition

- ☒ EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a CONSTRUCTIVE PETITION FOR EXTENSION OF TIME in accordance with 37 C.F.R. § 1.136(a)(3).

5. Fee Calculation (37 C.F.R. §1.16)

CLAIMS AS AMENDED						
	Claims Remaining After Amendment		Highest No. Previously Paid	Present Extra	at Rate of	Total Fees
Total Claims (37 C.F.R. §1.16(c))	6	minus	20	0	x \$18 each=	+ \$0.00
Independent Claims (37 C.F.R. §1.16(b))	1	minus	3	0	x \$84 each=	+ \$0.00
[] First presentation of Multiple dependent claim(s)					\$280.00	+ \$0.00
SUB-TOTAL =						\$0.00
Reduction by ½ for filing by a small entity						- \$0.00
TOTAL FEE =						\$0.00

6. Fee Payment

- ☒ No fee is to be paid at this time.
- ☐ Please charge Deposit Account No. 50-0310 the amount of \$_____ for the extension of time fee or fee for claims.
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, including fees due under 37 C.F.R. §§ 1.16 and 1.17, or credit any overpayment to Deposit Account 50-0310.

Respectfully submitted,
MORGAN, LEWIS & BOCKIUS LLP

Dated: May 21, 2003

By: _____

Victoria D. Hao
Victoria D. Hao
Reg. No. 47,630

CUSTOMER NO. 09629
MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Telephone: 202.739.3000



Response under 37 C.F.R. § 1.116
Expedited Procedure
Examining Group 3724

PATENT
Attorney Docket No. 056848-5003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 27 2003
TECHNOLOGY CENTER R3700

Sir:

AMENDMENT UNDER 37 C.F.R. § 1.116

In response to the Office Action dated February 21, 2003 (Paper No. 9), the period for response to which extends through May 21, 2003, entry of the following amendments is respectfully requested to place the application in clear condition for allowance or, alternatively, in better form for appeal.

IN THE CLAIMS:

Kindly amend claims 10-15 as follows. A detailed listing of all claims is as follows.

10. (Currently Amended) A wire-cutting apparatus for brick manufacturing, the apparatus including:

a pair of generally vertically spaced elongated beams arranged in a substantially parallel, spaced relationship;

a plurality of tensioned spaced slug cutting wires attached to and extending between the beams, the wires being located at spaced locations along the beams; and

~~[a A wire cutting apparatus for brick manufacturing, the apparatus including:~~

~~a pair of generally vertically spaced elongated beams arranged in a substantially parallel, spaced relationship;~~

~~a plurality of tensioned spaced slug cutting wires attached to and extending between the beams, the wires being located at spaced locations along the beams; and]~~

a plurality of blades mounted on one of the beams to facilitate a slug forming a slot in a green brick being formed, [; and

~~wherein each of respective blades is associated with, and located approximately adjacent to, a corresponding one of the wires, such that slots are formed at a corner of the green brick being formed. plurality of blades mounted on one of the beams to facilitate a slug forming a slot in a green brick being formed; and]~~

wherein each of respective blades is associated with, and located approximately adjacent to, a corresponding one of the wires, such that slots are formed at a corner of the green brick being formed.

11. (Currently Amended) The apparatus of claim 10, wherein each of the blades [blade] has a passage through which an associated one of the cutting wires passes.

12. (Currently Amended) The apparatus of claim 10, wherein [~~there is mounted a plurality of~~] the blades are mounted on [~~both~~] the beams, with the blades being arranged in pairs, with each pair including a respective one of the blades on each of the beams and between which an associated one of the cutting wires passes.

13. (Currently Amended) The apparatus of claim 11, wherein [~~there is mounted a plurality of~~] the blades are mounted on [~~both~~] the beams, with the [blade] blades being arranged in pairs with each pair including a respective one of the blades on each of the beams and between which an associated one of the cutting wires passes.

14. (Currently Amended) The apparatus of claim 12, wherein each of the cutting wires [wire] has a major length displaced laterally relative to portions of the wire located between the blades.

15. (Currently Amended) The apparatus of claim 13, wherein each of the cutting wires [wire] has a major length displaced laterally relative to portions of the wire located between the blades.

REMARKS

Favorable reconsideration and allowance of the subject application are respectfully requested in view of the following remarks.

Summary of the Office Action

Drawings stand objected to because the designation of reference numeral 30 is improper in Figures 4 and 5, and the Final Office Action acknowledges the receipt of the corrected drawings filed on November 18, 2002¹.

Claims 10-15 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite.

Claim 10 stands rejected under 35 U.S.C. §102(b) as being anticipated by *Vrijma* (U.S. Patent No. 3,695,129).

Claims 11-15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Vrijma*.

Summary of the Response to the Office Action

A Change of Attorney Docket Number, a Request for Approval of Drawing Changes and a Submission of Formal Drawings are submitted herewith. Applicant has amended claims 10-15 by this amendment. Claims 10-15 remain currently pending.

Objection to the Drawings

Drawings stand objected to because the designation of reference numeral 30 is improper in Figures 4 and 5, and the Final Office Action acknowledges the receipt of the corrected drawings filed on November 18, 2002. The Final Office Action states that a "proposed drawing

¹ Although the Final Office Action indicates the filing date of the corrected drawings as November 22, 2002, Applicant assumes that the Final Office Action intends to refer to the Submission of Corrected Drawings filed on November 18, 2002. If Applicant's assumption is inaccurate, further clarification is respectfully requested with the next communication.

correction was not received and is required in reply to this Office Action.” Accordingly, Applicant submits herewith a Request for Approval of Drawing Changes proposing the same drawings changes as those in the Submission of Corrected Drawings filed on November 18, 2003 in the present application. In addition, Applicant submits herewith a Submission of Formal Drawings incorporating these proposed drawing changes. Accordingly, the Examiner’s approval of the changes made and withdrawal of the objection to the drawings are respectfully requested.

Claim Rejection Under 35 U.S.C. §112, Second Paragraph

Claims 10-15 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. In particular, the Final Office Action asserts that the recitations at claim 10, lines 6-10 and 15-19 are vague as shown in the “**In the Claims**” portion of the Amendment filed on November 18, 2002. Accordingly, Applicant has amended claim 10 to address the Examiner’s concerns.

In addition, the Final Office Action asserts that the recitation of “the wire” at claim 12, line 4 lacks positive antecedent basis. Also, the Final Office Action asserts that the recitations of “the blade” and the “wire” at claim 13, lines 2 and 4, respectively, are vague. Accordingly, Applicant has amended claims 12 and 13 to address the Examiner’s concerns.

Accordingly, Applicant respectfully submits that claims 10-15, as amended, fully comply with the requirements of 35 U.S.C. §112, second paragraph, and the Examiner’s consideration and withdrawal of the rejection are respectfully requested.

Claim Rejections Under 35 U.S.C. §§102(b) and 103(a)

Claim 10 stands rejected under 35 U.S.C. §102(b) as being anticipated by *Vrijma*. Claims 11-15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Vrijma*. These rejections are respectfully traversed for at least the following reasons.

Applicant respectfully submits that *Vrijma* does not anticipate claim 10 because *Vrijma*

does not disclose all of the features of the claim 10. For instance, it is respectfully submitted that *Vrijma* fails to disclose the claimed combination as set forth in independent claim 10 including at least "wherein each of respective blades is associated with, and located approximately adjacent to, a corresponding one of the wires, such that slots are formed at a corner of the green brick being formed."

In contrast to the claimed invention, *Vrijma* discloses a wire-cutting apparatus to cut a block of material in a plastic state, e.g., lightweight concrete, so that individual blocks are provided. See the Abstract, lines 1-2 of *Vrijma*. In particular, *Vrijma*'s apparatus includes blades that remove the upper crust from the material and form grooves in the top surface of the block. As shown in FIG. 2 of *Vrijma*, the blades (12) has a "V" configuration and are located generally at the center of the upper edge of the blocks being formed. However, no portion of *Vrijma*'s disclosure teaches an apparatus that forms the grooves at a corner of the blocks being formed. Moreover, Applicant respectfully submits that there is no suggestion or motivation in *Vrijma* for forming the grooves at a corner of the blocks being formed.

In the preferred embodiment of the present invention, blades (27, 28) engage the clay slug when green bricks are being formed, so that the blades (27, 28) form slots at the corners of the green bricks being formed. Further, as shown in FIG. 1 of the present invention, the blades (27, 28) are arranged in pairs, and as shown in FIG. 2 of the present invention, the cutting wires (15) pass through or locate adjacent to the blades (27, 28). Accordingly, the cutting wires (15) cut the sides of the green bricks, as the blades (27, 28) form slots at the corners of the green bricks.

M.P.E.P. § 2131 states "[t]o anticipate a claim, the reference must teach every element of the claim." Since, in light of the above, *Vrijma* fails to teach or suggest each and every element

set forth in independent claim 10, it is respectfully submitted that *Vrijma* does not anticipate claim 10.

Also, M.P.E.P. §2143.03 instructs that “[t]o establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).” Since claims 11-15 depend from claim 10, it is respectfully submitted that *Vrijma* also does not render claims 11-15 unpatentable. Moreover, claims 11-15 are also allowable because of the limitations recited therein. For instance, it is respectfully submitted that *Vrijma* also fails to teach or suggest the claimed combinations as set forth in claims 12-13 including “wherein the blades are mounted on the beams, with the blades being arranged in pairs, with each pair including a respective one of the blades on each of the beams and between which an associated one of the cutting wires passes.”

Accordingly, withdrawal of the rejection of claim 10 under 35 U.S.C. §102(b) and the rejection of claims 11-15 under 35 U.S.C. §103(a) is respectfully requested.

Conclusion

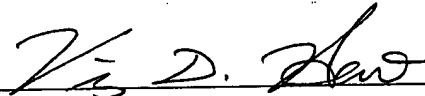
In view of the foregoing, Applicant respectfully requests the entry of this Amendment to place the application in clear condition for allowance or, in alternative, in better form for appeal. Applicant also respectfully requests the Examiner’s reconsideration and reexamination of the application and the timely allowance of the pending claims. Should there remain any questions or comments regarding this response or the application in general, the Examiner is urged to contact the undersigned at the number listed below.

If there are any fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310.

If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By: 
Victoria D. Hao
Registration No. 47,630

Dated: May 21, 2003

Customer No.: 009629
MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Telephone: 202.739.3000
Facsimile: 202.739.3001



PATENT
Attorney Docket No. 056848-5003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Christopher C.N. CALLOW

Application No.: 09/870,135

Filed: May 30, 2001

For: A CUTTING MACHINE FOR BRICK
MAKING

Confirmation No.: 8867

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Examiner: C. Dexter

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Sir:

REQUEST FOR APPROVAL OF DRAWING CHANGES


Subject to the approval of the Examiner, it is respectfully requested that in the above-identified application, the reference numeral "30" be replaced with the reference numeral "37" in FIGs. 4 and 5, as indicated in red on the attached drawing sheet.

It is respectfully submitted that these changes introduce no new matter as they conform to the specification and/or drawing as originally filed, pursuant to 37 C.F.R. § 1.81(d). The submission of the revised formal drawings is filed concurrently.

Respectfully submitted,
MORGAN, LEWIS & BOCKIUS LLP

Dated: May 21, 2003

By:


Victoria D. Hao
Registration No. 47,630

CUSTOMER NO. 009629
MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel: 202.739.3000

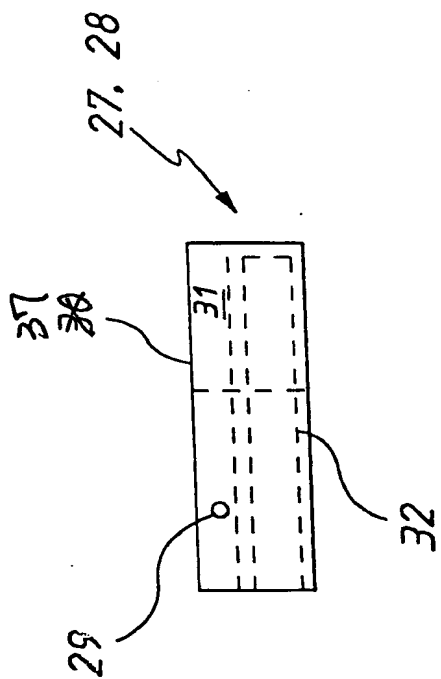


FIG. 5

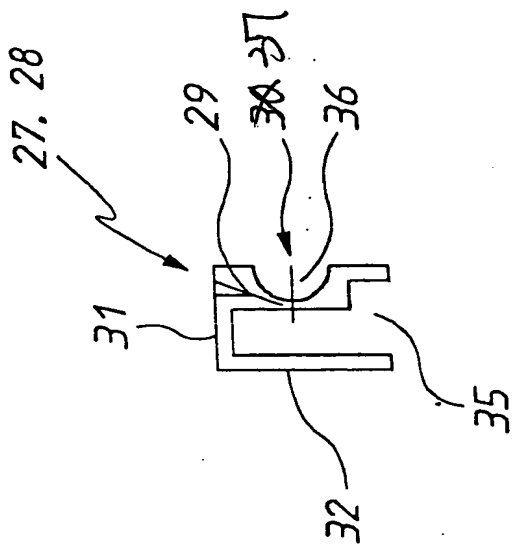


FIG. 4

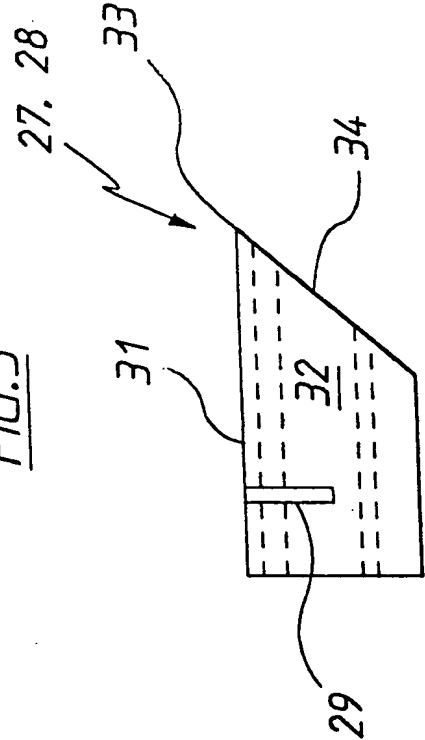


FIG. 6



PATENT
Attorney Docket No. 056848-5003

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MAKING)	

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2011 South Clark Place
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Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202
Sir:

SUBMISSION OF FORMAL DRAWINGS

Filed herewith are four (4) sheets of formal patent drawings containing six (6) figures. It is requested that these drawings be approved and made part of the official record in the above-identified patent application.


If there are any fees due in connection with the filing of these drawings, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

Dated: May 21, 2003

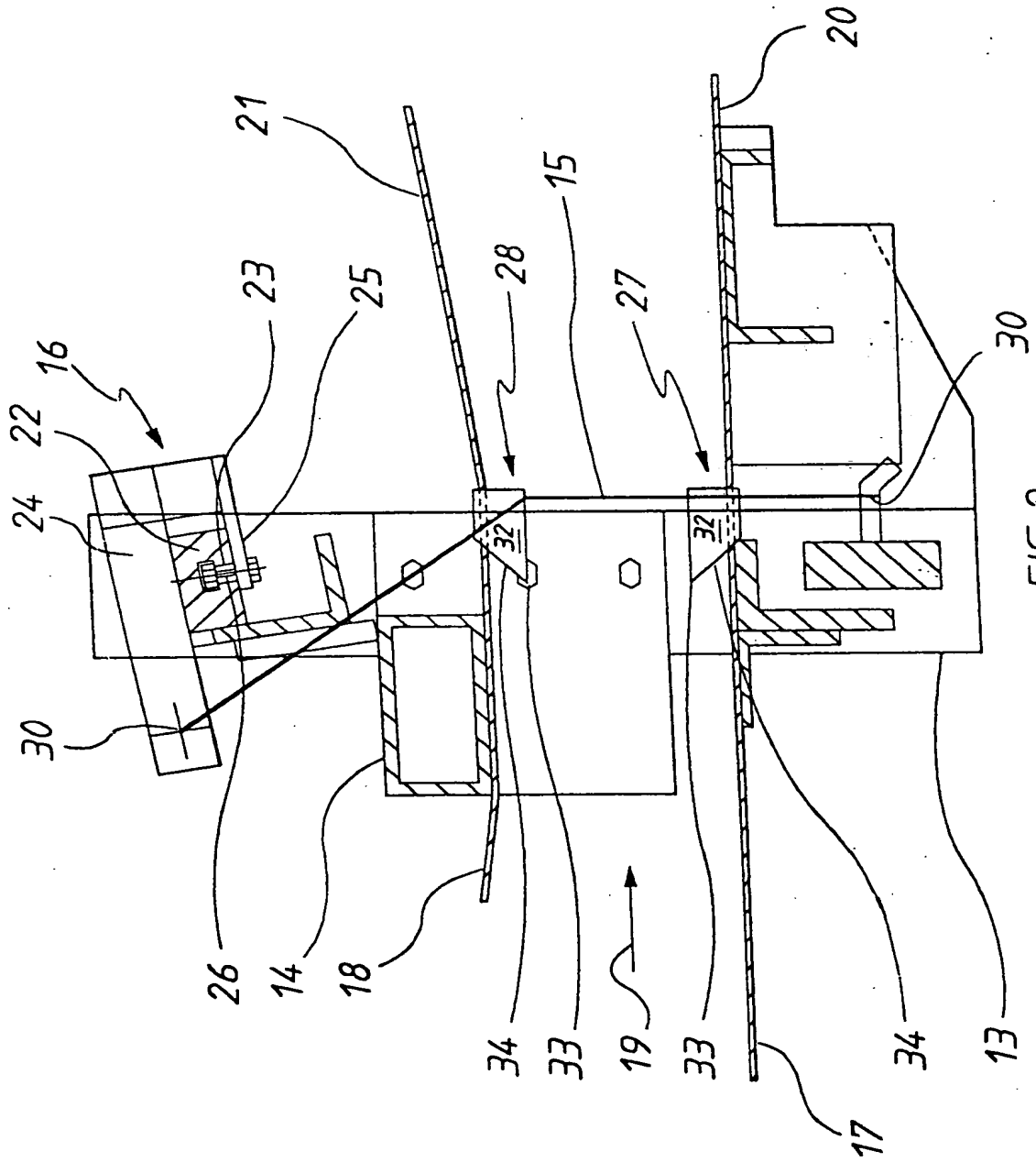
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FIG. 1



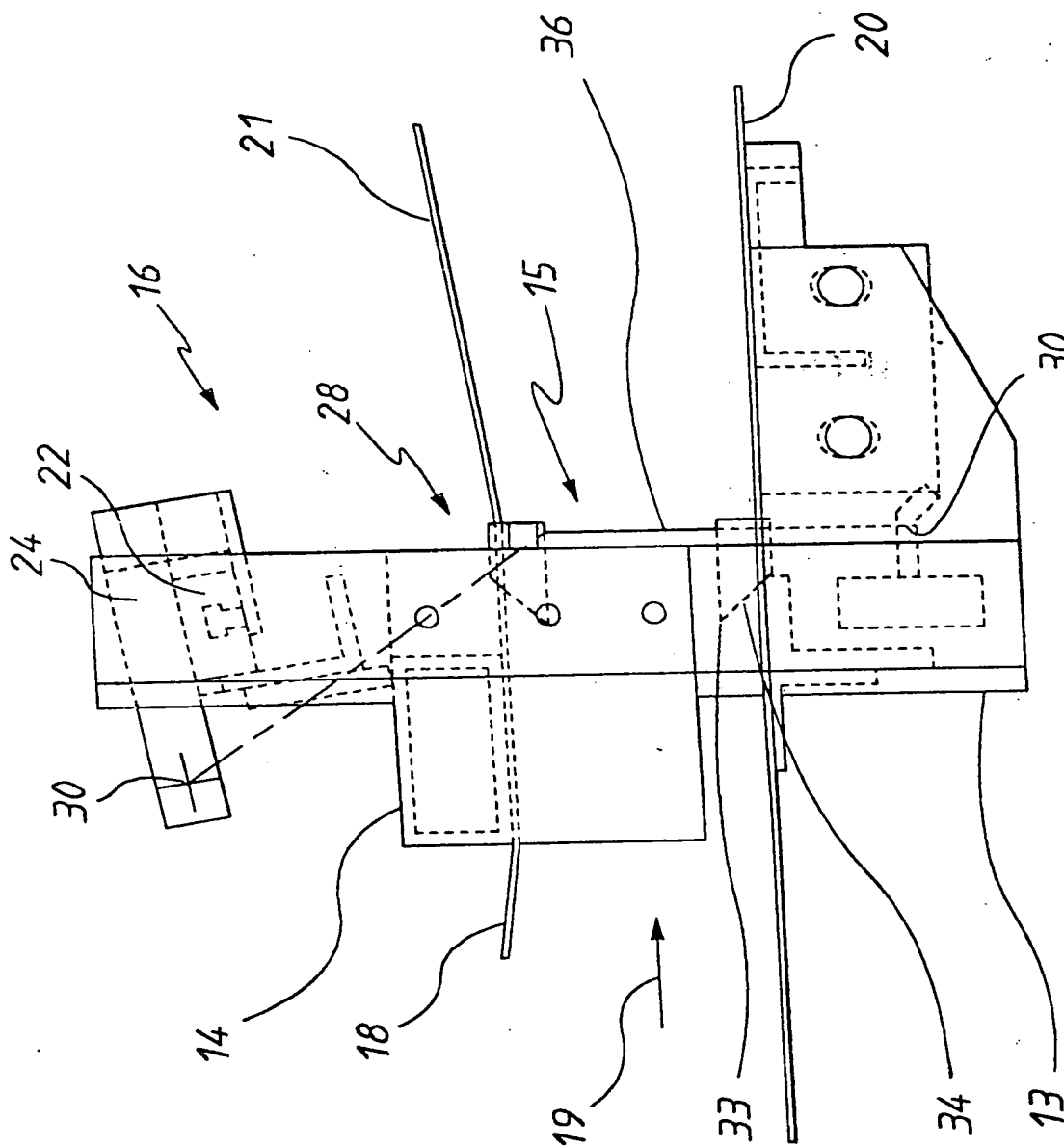


FIG. 3

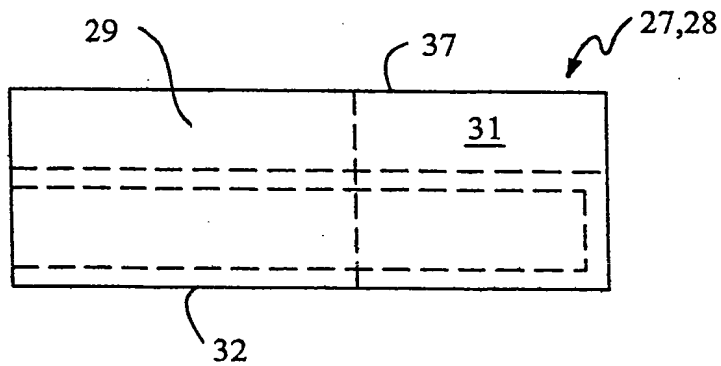


FIG. 5

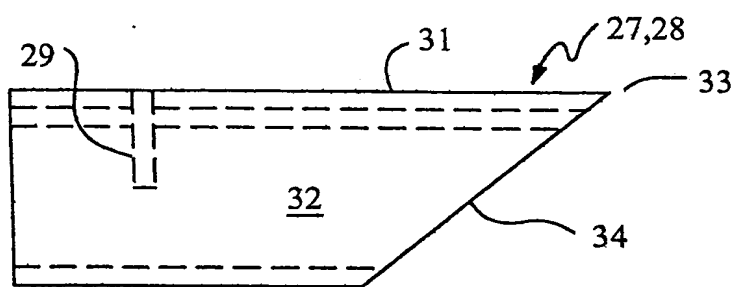


FIG. 6

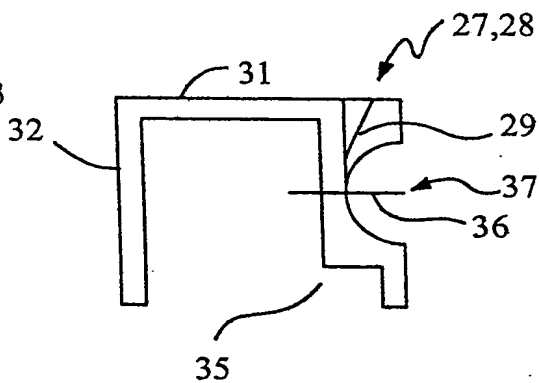


FIG. 4